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GROUP 1600

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMI 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)		Application Number	09/392,822
		Filing Date	September 9, 1999
		First Named Inventor	YU, DE-CHAO
		Group Art Unit	1632
		Examiner Name	WOITACH, JOSEPH T.
Total Number of Pages in This Submission	16	Attorney Docket Number	CELL-014
<b>ENCLOSURES (check all that apply)</b>			
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Fax Cover Sheet 2. Reference	Remarks
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>			
Firm or Individual Name Signature Date	PAMELA J. SHERWOOD, Reg. No. 36,677  March 4, 2002		

**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is being sent by facsimile transmission to the United States Patent and Trademark Office at the 1650-60 Art Unit's following fax number: (703) 308-1242 on this date: March 4, 2002.

Typed or printed name: Susan M. Alessi

Signature:

Date: March 4, 2002

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PTO/SB/17 (10-01)

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

<b>TOTAL AMOUNT OF PAYMENT</b>		(\$ 120.00)		<b>Complete if Known</b>																																																																																																																																																																															
<b>METHOD OF PAYMENT</b>		<b>FEE CALCULATION (continued)</b>																																																																																																																																																																																	
1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit overpayments to: Deposit Account Number 50-0815 Deposit Account Name Bozicevic, Field & Francis LLP <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Applicant Claims small entity status. See 37 CFR 1.27		<b>3. ADDITIONAL FEES</b> <table border="1"> <thead> <tr> <th>Large Entity Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee Code</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>105</td> <td>130</td> <td>205</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>127</td> <td>50</td> <td>227</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>139</td> <td>130</td> <td>139</td> <td>130</td> <td>Non English specification</td> <td></td> </tr> <tr> <td>147</td> <td>2,520</td> <td>147</td> <td>2,520</td> <td>For filing a request for <i>ex parte</i> reexamination</td> <td></td> </tr> <tr> <td>112</td> <td>920*</td> <td>112</td> <td>920*</td> <td>Requesting publication of SIR prior to Examination action</td> <td></td> </tr> <tr> <td>113</td> <td>1,840*</td> <td>113</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>115</td> <td>110</td> <td>215</td> <td>55</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>116</td> <td>400</td> <td>216</td> <td>200</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>117</td> <td>920</td> <td>217</td> <td>460</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>118</td> <td>1,440</td> <td>218</td> <td>720</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>128</td> <td>1,960</td> <td>228</td> <td>980</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>119</td> <td>320</td> <td>219</td> <td>160</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>120</td> <td>320</td> <td>220</td> <td>160</td> <td>Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>121</td> <td>280</td> <td>221</td> <td>140</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>138</td> <td>1,510</td> <td>138</td> <td>1,510</td> <td>Petition to Institute a public use proceeding</td> <td></td> </tr> <tr> <td>140</td> <td>110</td> <td>240</td> <td>55</td> <td>Petition to revive - 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late filing fee or oath		127	50	227	25	Surcharge - late provisional filing fee or cover sheet		139	130	139	130	Non English specification		147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination		112	920*	112	920*	Requesting publication of SIR prior to Examination action		113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		115	110	215	55	Extension for reply within first month		116	400	216	200	Extension for reply within second month		117	920	217	460	Extension for reply within third month		118	1,440	218	720	Extension for reply within fourth month		128	1,960	228	980	Extension for reply within fifth month		119	320	219	160	Notice of Appeal		120	320	220	160	Filing a brief in support of an appeal		121	280	221	140	Request for oral hearing		138	1,510	138	1,510	Petition to Institute a public use proceeding		140	110	240	55	Petition to revive - unavoidable		141	1,280	241	640	Petition to revive - unintentional		142	1,280	242	640	Utility Issue fee (or missing)		143	460	243	230	Design Issue fee		144	820	244	310	Plant issue fee		122	130	122	130	Petitions to the Commissioner		123	50	123	50	Processing fee under 37 CFR 1.17(q)		126	180	126	180	Submission of Information Disclosure Stmt		581	40	581	40	Recording each patent assignment per property (times number of properties)		146	740	246	370	For each additional invention to be examined (37 CFR § 1.129(a))		149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))		170	740	279	370	Request for Continued Examination (RCE)		188	900	109	900	Request for expedited examination of a design application	
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CERTIFICATE OF FACSIMILE			
I hereby certify that this correspondence is being sent by facsimile transmission to the United States Patent and Trademark Office at the 1650-60 Art Unit's following fax number: (703) 308-4242 on this date: March 4, 2002.			
Typed or Printed Name	Susan M. Alessi		
Signature	<i>Susan M. Alessi</i>	Date	3/4/2002

**FACSIMILE TRANSMITTAL** **FAX RECEIVED**  
**BOZICEVIC, FIELD & FRANCIS LLP** **MAR 05 2002**  
 200 Middlefield Road **GROUP 1600**  
 Suite 200  
 Menlo Park, California 94025  
 Telephone (650) 327-3400  
 Facsimile (650) 327-3231

Date: March 4, 2002

To: **Examiner Joseph T. Woitach, Art Unit-1632**  
 United States Patent and Trademark Office

Facsimile No.: (703) 308-4242

From: Pamela J. Sherwood, Reg. No. 36,677  
 Bozicevic, Field & Francis LLP

Re: U.S. Patent Application No. 09/392,822 for  
 Title: ADENOVIRUS VECTORS CONTAINING CELL  
 STATUS-SPECIFIC RESPONSE ELEMENTS AND METHODS  
 OF USE THEREOF  
 Inventor(s): De-Chao Yu  
 Filed: September 9, 1999  
 Attorney Docket: CELL-014

**Enclosed:**

- Transmittal (1 page)
- Fee Transmittal in Duplicate (2 pages)
- Preliminary Amendment (7 pages)
- Cited Reference (5 pages)

For problems with this transmission please contact Susan M. Alessi by phone at 650-833-7714 or via email at Alessi@bozpat.com.

Total number of pages, including this cover sheet: 16

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Typed or Printed Name Susan M. Alessi

Signature



Date

March 4, 2002

**PRELIMINARY AMENDMENT**

Address to:  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Attorney Docket

CELL-014

First Named Inventor

D. Yu

Application Number

09/392,822

Filing Date

September 9, 1999

Group Art Unit

1632

Examiner Name

Joseph T. Voitach

Title: *Adenovirus Vectors containing Cell Status-Specific Response Elements and Methods of Use thereof*

Sir:

Prior to examination, Applicants request entry of the following amendments.

**IN THE CLAIMS**

Please replace the pending claims with the correspondingly numbered claims below. Claims added herein are noted by the text in parentheses.

1. A replication-competent adenovirus vector comprising,  
a hypoxia responsive element (HRE) operably linked to an adenovirus gene essential for replication selected from the group consisting of E1A, E1B and E4, wherein said HRE comprises a binding site for hypoxia inducible factor-1.

8. The adenovirus vector of claim 1, wherein the HRE is human.

14. The adenovirus vector of claim 1, wherein said adenovirus gene essential for replication is operably linked to a composite regulatory element comprising said HRE and a cell-type specific transcriptional regulatory element (TRE).

15. The adenovirus vector of claim 14, wherein said cell type-specific TRE comprises a promoter.